

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

**ONE PAINTING ENTITLED “SECRET
DEPARTURE OF IVAN THE TERRIBLE
BEFORE THE OPRICHINA,”**

Defendant.

Civil Action No. 18-3015

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

COMES NOW, Plaintiff the United States of America, by and through the United States Attorney for the District of Columbia, and brings this Verified Complaint for Forfeiture *in Rem* against the defendant property, namely: one oil painting entitled “Secret Departure of Ivan the Terrible Before the Oprichina” by Mikhail N. Panin (the “Defendant Property”), which is depicted in Attachment A. The United States alleges as follows in accordance with Rule G(2) of the Federal Rules of Civil Procedure, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions:

THE DEFENDANT PROPERTY

1. The Defendant Property is a Mikhail N. Panin oil painting entitled “Secret Departure of Ivan the Terrible Before the Oprichina.” The Defendant Property is in the possession of the Federal Bureau of Investigation (“FBI”).

NATURE OF ACTION AND THE DEFENDANT *IN REM*

2. This *in rem* forfeiture action arises out of an investigation by the FBI into the theft of the Defendant Property stolen during the Second World War. The Defendant Property was

subsequently transported in interstate commerce in violation of 18 U.S.C. § 2314 (Interstate Transportation of Stolen Property) and 18 U.S.C. § 2315 (Possession of Stolen Goods).

3. The Defendant Property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as property constituting or derived from the proceeds of the interstate transportation of stolen property and possession of stolen goods and 28 U.S.C. § 2461, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. §§ 2314 and 2315.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355. These statutes confer original jurisdiction to district courts of all civil actions, suits, or proceedings commenced by the United States and any action for the forfeiture of property incurred under any act of Congress.

5. Venue is proper pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred within the District of Columbia.

FACTS GIVING RISE TO FORFEITURE

I. Exchange of the Defendant Property

6. Person 1 and Person 2 are a married couple residing in Maine. In 1987, Person 1 purchased a home in Ridgefield, Connecticut. The Defendant Property, which measures approximately 7.5 feet by 8.5 feet, conveyed with the home.

7. Owner 1 purchased the home from a married couple, Person 3 and Person 4, who had purchased the home in 1962 from Person 5.

8. At the time of the 1962 conveyance of the home, the Defendant Property conveyed with the house from Person 5 to Person 3 and Person 4.

9. Person 5 was a Swiss citizen who emigrated to the United States in 1946. After purchasing the home from Person 5 in 1962, Person 3 and Person 4 located a certificate in the attic

of the house commemorating Person 5's service in the Swiss Army during the Second World War. Person 5 passed away in 1986.

10. In 2017, Person 1 and Person 2 consigned the Defendant Property for auction.

II. Attempted Sale of the Defendant Property

11. In 2017, the Defendant Property traveled to the Washington, D.C. metropolitan area for the attempted sale of the Defendant Property. Person 1 and Person 2 hired a company to transport the Defendant Property due to the size and physical condition of the painting.

12. The Defendant Property was scheduled to be auctioned on November 18, 2017 and was published in the auction's house catalogue.

13. On November 17, 2017, an employee of the auction house received an email from the Dnepropetrovsk State Art Museum. The email stated, in part:

Attention! Painting "Ivan the Terrible" was in the collection of the Dnepropetrovsk Art Museum until 1941 and was stolen during the Second World War. The museum documentation confirms this fact. Please stop selling this painting at auction!!! According the international rules of restitution of stolen works of art, the picture should return to Ukraine.

14. On December 29, 2017, the auction house received a further email from the Director of the Dnepropetrovsk State Art Museum stating, in part:

The painting of Mikhail Panin (1877-1963) "Ivan the Terrible" dated of 1911 was a diploma work of the artist, was transferred from the St. Petersburg Academy of Arts in 1913 to the collection of Ekaterinoslav City Art Museum (today the Dnepropetrovsk Art Museum), was among the 64 exhibits that compiled the first museum exposition in 1914, was exhibited at the permanent exhibition of the museum until 1941 and disappeared during the occupation of the city during the Second World War. We have black-white photos and documents of the museum's funds [sic].

15. Law enforcement obtained records from the Embassy of Ukraine in Washington, D.C., which provided supporting documentation regarding the authenticity of the Defendant Property.

16. Law enforcement subsequently seized the defendant property for violations of the above statutes.

17. Law enforcement has contacted Person 1 and Person 2 regarding the sale of the Defendant Property. Person 1 and Person 2 have agreed to waive any claim to the Defendant Property, and have agreed that it should be returned to the Government of Ukraine.

FIRST CLAIM FOR RELIEF

(18 U.S.C. § 981(A)(1)(C))

(Proceeds of the Interstate Transportation of Stolen Property, 18 U.S.C. § 2314)

18. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 17 above as if fully set forth herein.

19. The Defendant Property, which was valued at more than \$5,000, was transported in interstate commerce after it had been stolen, in violation of 18 U.S.C. § 2314.

20. As such, the Defendant Property is subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C), as property constituting or derived from proceeds of the interstate transportation of stolen property.

SECOND CLAIM FOR RELIEF

(18 U.S.C. § 981(A)(1)(C))

(Proceeds of Possession of Stolen Goods, 18 U.S.C. § 2315)

21. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 17 above as if fully set forth herein.

22. The Defendant Property, which was valued at more than \$5,000, was possessed after it had been stolen and after it had been moved across state boundaries, in violation of 18 U.S.C. § 2315.

23. As such, the Defendant Property is subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C), as property constituting or derived from proceeds of the possession of stolen goods.

THIRD CLAIM FOR RELIEF
(19 U.S.C. § 1595(C)(1))
(Unlawful Importation, 19 U.S.C. § 1595(c))

24. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 17 above as if fully set forth herein.

25. The Defendant Property is merchandise that was introduced into the United States contrary to law.

26. As such, the Defendant Property is subject to forfeiture, pursuant to 19 U.S.C. § 1595(c)(1).

PRAAYER FOR RELIEF

WHEREFORE, the United States of America prays that notice issue on the Defendant Property as described above; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that a warrant of arrest *in rem* issue according to law; that judgment be entered declaring that the Defendant Property be forfeited for disposition according to law; and that the United States of America be granted such other relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: December 20, 2018

Respectfully submitted,

JESSIE K. LIU, D.C. Bar No. 472845
United States Attorney

By: /s/
ZIA M. FARUQUI, D.C. Bar No. 494990
ARVIND K. LAL, D.C. Bar No. 389496
BRIAN HUDAK, N.Y. Bar

Assistant United States Attorneys
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7117

Attorneys for the United States of America

Executed on this 20th day of December, 2018.

/s/

 Marc Hess
 Special Agent
 Federal Bureau of Investigation

Attachment A



Painting as it appears today



Painting as it appeared in Dnepropetrovsk State Art Museum circa 1929



Painting as it appeared in Dnepropetrovsk State Art Museum circa 1929

CIVIL COVER SHEET

JS-44 (Rev. 5/12 DC)

I. (a) PLAINTIFFS United States of America (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS ONE PAINTING ENTITLED "SECRET DEPARTURE OF IVAN THE TERRIBLE BEFORE THE OPRICHINA," COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Zia M. Faruqui, Assistant U.S. Attorney U.S. Attorney's Office for the District of Columbia 555 Fourth Street, N.W. Washington, D.C. 20530	ATTORNEYS (IF KNOWN) Unknown

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in This State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input checked="" type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization	<input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Remand from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 18 U.S.C. § 981(a)(1)(C)- civil forfeiture of property derived from proceeds of ITSP/stolen goods

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 12/20/2018	SIGNATURE OF ATTORNEY OF RECORD: /s/Zia M. Faruqui
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

YOU ARE FURTHER COMMANDED, promptly after execution of this process, to file the same in this Court with your return thereon, identifying the individuals upon whom copies were served and the manner employed.

Dated: December ____, 2018

Clerk of the Court

By: _____
Deputy Clerk